

Serial No. 10/663,377

Docket No. 17565 (AP)

REMARKS

The Office Action of February 8, 2006 (the "Office Action") required the Applicants to elect between several groups of claims and the species they recited. The Applicants responded to that action by provisionally electing certain claims, but 5 presented for the Examiner's consideration amended claims reciting what the Applicants argued were a reasonable number of inventions for examination. The amended claims were inconsistent with the provisional election, however, because they indicated claims 56-60, part of the elected group, as being withdrawn.

In the present response, the Applicants present for the Examiner's 10 consideration the subject matter of previously withdrawn claims 57-60. Claim 56 remains withdrawn. In addition, the Applicants have corrected a typographical error in claim 5 (the claim recited "SEQ ID NOS: 14 an 16" whereas it should have recited "SEQ ID NOS: 14 and 16," instead).

A restriction requirement is appropriate only when the claims define inventions 15 that are independent or distinct and there is a "serious burden" on the Examiner. MPEP § 803. That inventions are independent or distinct, without more, cannot support a restriction requirement:

If the search and examination of an entire application can be made 20 without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

*Id.* The Office has determined that in most cases there is no burden where the claims require the Examiner to examine ten or fewer sequences. MPEP § 803.04 ("normally ten sequences constitute a reasonable number for examination purposes").

25 The Applicants have amended claims 1-3 and 5-7 and added new claims 61-66 such that those claims recite, in total, only six sequences (SEQ ID NOS: 1, 2, 7, 8, 14, and 16). This is well within the rule that sequences numbering less than ten do not burden the Examiner. Four of the claims (claims 1, 2, 3, and 7) are directed to the polypeptides represented by these sequences or cells expressing them; six of the

Serial No. 10/663,377

Docket No. 17565 (AP)

claims relate to nucleic acids that encode these polypeptides (claims 61-66); and the remaining claims (claims 5-7) are directed to binding agents, such as antibodies or antigen binding fragments, that bind to two of the recited sequences (SEQ ID NOS: 14 and 16). Examining these claims would not burden the Examiner, requiring little  
5 more than a search of six sequences, a number that the Office has already determined to be reasonable.

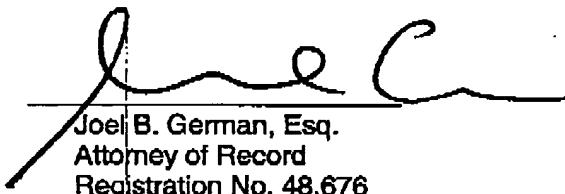
For the foregoing reasons the Applicants respectfully submit that examining claims 1-3, 5-7, and 61-66 pose no burden on the Office, and respectfully request that the Examiner examine them on the merits.

Serial No. 10/663,377

Docket No. 17565 (AP)

The undersigned authorizes the Director to charge any fees required or necessary for the filing, processing or entering of this paper or any of the papers transmitted with it, and to refund any overpayment, to deposit account 01-0885.

Respectfully submitted,



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